

off of the mortgage. The Court, in citing Hogan v. McMahon, supra, for the principle that a co-tenant is ordinarily entitled to contribution for discharging a mortgage, stated that the factual situation in Hogan was distinguishable from the case at bar.

In Maas there was a presumption of a gift to appellant's children by his paying off the mortgage. This presumption was bolstered by the declaration in the deed to the children that the property was unencumbered. Also, the children were the objects of the father's natural bounty which is of itself a circumstance sufficient to raise an inference that a gift was intended.

In Maas there was also a question as to the value of improvements to the property made by the appellant and whether or not he was entitled to reimbursement from the proceeds of sale. The Court cited the following from Williams v. Harlan, 88 Md. 1:

"When two or more persons are joint-owners of real or other property, and one of them in good faith for the joint benefit, makes repairs and improvements upon the property which are permanent, and add a permanent value to the entire estate, equity may not only give him a claim for contribution against the other joint-owners with respect to their proportional shares of the amount thus expended, but may also create a lien as security for such demand upon the undivided shares of the other proprietors." To the same effect 13 Am. and Eng. Encyl. of Law, p. 602; Green v. Putman, 1 Barbour 500; Hall v. Piddock, 21 N.J. Eq. 311; Gavin v. Carling, 55 Md. 530.

In an annotation entitled "Adjustment on partition of improvements made by tenant in common." 1 A.L.R. 1189 the rule for "Compensation out of proceeds of sale" concludes:

". . . if the improvements made by one co-tenant add to the amount which the property will bring on the partition sale ordered, the amount so added is to be paid to him out of the proceeds of the sale, in addition to his pro rata share of the proceeds . . ."

However, in Maas the Court refused to grant the appellant's request for compensation for improvements because there was no evidence that the two apartments built over the garage on the property enhanced the value of the property.